

**IN THE CIRCUIT AND SUPERIOR COURTS OF DECATUR COUNTY**

**STATE OF INDIANA**

**NOTICE OF PROPOSED LOCAL RULE AMENDMENT TO LR16-CR2.2-1**  
**CONCERNING THE NONDISCRETIONARY ASSIGNMENT**  
**OF ALL FELONY AND MISDEMEANOR CASES**  
**AND REQUEST FOR SUPREME COURT APPROVAL**

WHEREAS, the Decatur Circuit Court and the Decatur Superior Court adopted on June 20, 1995 a local rule regarding criminal case assignments, which rule was approved by the Indiana Supreme Court on June 26, 1995, and was further amended on June 1, 2001 and approved by the Indiana Supreme Court on August 29, 2001, and

WHEREAS, the Decatur Circuit Court and the Decatur Superior Court now desire to again amend that rule to equalize caseload distributions,

THEREFORE, the Decatur Circuit Court and the Decatur Superior Court now amend, subject to the approval of the Indiana Supreme Court, the local rule regarding criminal case assignments.

Comments may be made until July 1, 2008 to The Honorable John A. Westhafer, Judge, Decatur Circuit Court, at 150 Courthouse Square, Suite 6, Greensburg, IN 47240-2089, or by email at [circuitcourt@decaturcounty.in.gov](mailto:circuitcourt@decaturcounty.in.gov).

This rule shall be effective January 1, 2009, subject to approval by the Indiana Supreme Court.

DATED this 22nd day of May, 2008.

s/W. Michael Wilke  
W. Michael Wilke, Judge  
Decatur Superior Court

s/John A. Westhafer  
John A. Westhafer, Judge  
Decatur Circuit Court

## LR16-CR2.2-1      CRIMINAL CASE FILINGS

~~WHEREAS, the Decatur Circuit Court and the Decatur Superior Court adopted on June 20, 1995 a local rule regarding criminal case assignments, which rule was approved by the Indiana Supreme Court on June 26, 1995, and~~

~~WHEREAS, the Decatur Circuit Court and the Decatur Superior Court now desire to amend that rule to equalize caseload distributions,~~

~~Therefore the Decatur Circuit Court and the Decatur Superior Court now amend, subject to the approval of the Indiana Supreme Court, the local rule regarding criminal case assignments as follows:~~

- ~~(1) The Decatur Superior Court shall have exclusive jurisdiction over all charges filed under Titles 7.1, 9, and 14 of the Indiana Code. The Decatur Circuit Court shall have exclusive jurisdiction over all charges filed under Title 35, Article 43 of the Indiana Code.~~
- ~~(2) In all other criminal actions, the Decatur County Clerk shall randomly select one third of the felony cases and one half of the misdemeanor cases for assignment to the Decatur Superior Court and shall randomly select two thirds of the felony cases and one half of the misdemeanor cases for assignment to the Decatur Circuit Court.~~
- ~~(3) Where the investigation of an event results in criminal charges against more than one defendant, all criminal charges arising from the investigation shall be filed with the same court.~~
- ~~(4) Where multiple counts or defendants have been charged, the most serious offense shall dictate the classification to be assigned to the case for purposes of implementing the random selection process in paragraph 2.~~
- ~~(5) When there are pending charges against a defendant, additional charges arising out of the same investigation shall be filed in the same court. Also, new charges against a defendant on probation shall be filed in the court which ordered his/her probation.~~
- ~~(6) When charges against a defendant have been filed and dismissed, any subsequent charges filed against the same defendant arising out of the same investigation shall be filed with the court to which the case was originally assigned.~~
- ~~(7) Judges of the Decatur Circuit Court and the Decatur Superior Court, by appropriate order entered in the Record of Judgments and Orders, may transfer and reassign to the other court any pending case, subject to~~

~~acceptance by that court. In addition, the following judges have agreed to serve in the event it becomes necessary to reassign felony or misdemeanor cases in the Decatur Circuit Court or Decatur Superior Court: Hon. Charles O'Connor, Shelby Circuit Court, Hon. Kathleen T. Coriden, Bartholomew Superior Court No. 2, Hon. Barbara Harcourt, Rush Circuit Court, Hon. Jon Webster, Jennings Circuit Court, and Hon. David Northam, Rush Circuit Court.~~

~~By order adopting these rules, the Indiana Supreme Court, pursuant to I.C. 33-2.1-7-8, temporarily transfers the above judges to the Decatur Circuit Court and Decatur Superior Court for purpose of reassignment of felony and misdemeanor cases.~~

~~(8) When, under these rules, no judge is available for appointment, or when, in the discretion of the regular presiding judge, the particular circumstance warrants selection of a special judge by the Indiana Supreme Court, the presiding judge shall certify these facts to the Indiana Supreme Court and request an appointment of a Special judge under the applicable procedural rules.~~

*Adopted June 1, 2001, effective July 1, 2001.*

1. When a court has personal jurisdiction of the defendant under a pending criminal cause or probation, any new criminal cause against that defendant shall be filed in that same court having such jurisdiction. The filing rule under this paragraph shall have priority over all other provisions of the filing rules.

2. If a court does not already have personal jurisdiction over the defendant, the Decatur Superior Court shall have exclusive jurisdiction over all charges filed under Titles 7.1, 9, and 14 of the Indiana Code. The Decatur Circuit Court shall have exclusive jurisdiction over all charges filed under Title 35, Article 43 of the Indiana Code.

3. In all other criminal actions presented for filing, the Decatur County Clerk shall, by random selection, assign one-third (1/3) of the felony cases and one-half (1/2) of the misdemeanor cases to the Decatur Superior Court and shall, by random selection, assign two-thirds (2/3) of the felony cases and one-half (1/2) of the misdemeanor cases to the Decatur Circuit Court

4. Where multiple counts or defendants have been charged, the most serious offense shall dictate the classification to be assigned to the case for purposes of implementing the random selection process in paragraph 3. If a conflict of subject matter jurisdiction arises under paragraph 2, the subject matter of the most serious offense shall determine the court assignment. If there is any further conflict under these rules, the method of random selection used to determine court assignment, as provided in paragraph 3, will be utilized.

5. Where the investigation of an event results in criminal charges against more than one defendant, all criminal charges arising from the investigation shall be filed with the same court. If among the group of defendants, charges are pending in both courts against more than one in the group, the Clerk shall determine the appropriate court by random selection , as provided under paragraph 3.

6. When charges against a defendant have been filed and dismissed, any subsequent charges filed against the same defendant arising out of the same investigation shall be filed with the court to which the case was originally assigned.

7. Judges of the Decatur Circuit Court and the Decatur Superior Court, by appropriate order entered in the Record of Judgments and Orders, may transfer and reassign to the other court any pending case, subject to acceptance by that court. In addition, reassignment may be made to the judges of the following courts: Shelby Circuit Court, Shelby Superior Courts 1 and 2, Bartholomew Circuit Court, Bartholomew Superior Courts 1 and 2, Rush Circuit Court, Rush Superior Court, Jennings Circuit Court, Jennings Superior Court, Ripley Circuit Court, Ripley Superior Court, and Franklin Circuit Court.

8. When, under these rules, no judge is available for appointment, or when, in the discretion of the regular presiding judge, the particular circumstance warrants selection of a special judge by the Indiana Supreme Court, the presiding judge shall certify these facts to the Indiana Supreme Court and request an appointment of a Special judge under the applicable procedural rules.

*Adopted May 22, 2008, effective January 1, 2009.*